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FILE

LAW OFFICES
KOTEEN & NAFTALIN
1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

BERNARD KOTEEN
ALAN Y. NAFTALIN
RAINER K. KRAUS
ARTHUR B. GOODKIND
GEORGE Y. WHEELER
HERBERT D. MILLER, JR.
MARGOT SMILEY HUMPHREY
PETER M. CONNOLLY
CHARLES R. NAFTALIN

M. ANNE SWANSON
GREGORY C. STAPLE
OF COUNSEL

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Federal Communications Commission
Office of the Secretary

TELEPHONE
(202) 467-5700
TELECOPY
(202) 467-5915
CABLE ADDRESS
"KOBURT"

April 29, 1992

Hand Delivered

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket No. 92-13

Dear Ms. Searcy:

Transmitted herewith, on behalf of Alascom, Inc., are an original and nine copies of its Reply Comments of Alascom, Inc. in the above-referenced proceeding.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Charles R. Naftalin

Enclosure

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List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 29 1992

In the Matter of

Tariff Filing Requirements for
Interstate Common Carriers

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CC Docket No. 92-13

Federal Communications Commission
Office of the Secretary

REPLY COMMENTS OF ALASCOM, INC.

Alascom, Inc. ("Alascom"), by its attorneys, hereby submits its reply comments concerning the Notice of Proposed Rulemaking, FCC 92-35 (released January 28, 1992) and the comments of the participants in the above-captioned proceeding.

Certain parties to this proceeding, in particular General Communication, Inc. ("GCI"), have suggested that if the Commission finds its forbearance policy unlawful and imposes a tariff filing requirement on nondominant carriers, then the effect of such a decision should be "prospective" only. GCI requests that "... the Commission should make clear that nondominant carriers who have relied on its forbearance policy are not liable for providing services pursuant to that policy."¹

It may well be appropriate and in the public interest for the Commission not to impose forfeitures or other sanctions on carriers for failing to file tariffs pursuant to Section 203 because they may have complied with the forbearance policy. That policy never applied to the ratemaking, discrimination or complaint provisions of Title II.

¹ Comments of General Communication, Inc., p. 4.

The Commission must continue to uphold its consistent, long-standing, policy that nondominant carriers never have been relieved of their obligations under Sections 201 and 202 of the Communications Act and are subject to the complaint procedures of Section 208. Specifically, at all times nondominant carriers have been required to charge just and reasonable rates and have been prohibited from unjust and unreasonable discrimination among customers.²

Relevant to this proceeding, the forbearance policy only relieved nondominant carriers of the tariff filing obligations expressed in Section 203 of the Communications Act. Carriers who charged unjust or unreasonable rates, or who discriminated among customers unlawfully, cannot and should not be insulated by any action in the instant proceeding. This is of particular importance because Alascom suspects that GCI has participated in such unlawful conduct, and has submitted evidence to that effect to the Commission in a pending complaint proceeding.³

Therefore, Alascom renews its request that the Commission abide by the unequivocal requirements of Section 203 of the Communications Act that all carriers file, maintain and adhere to schedules of charges for common carrier services. Reimposing the express statutory

² Common Carrier Services, 95 FCC 2d 554, 556 (1983) ("Carriers treated by forbearance remain subject to other Title II regulation, including the obligation to charge just, reasonable, and non-discriminatory rates under Sections 201-202 and the Section 208 complaint process.")

³ General Communication, Inc. v. Alascom, Inc., File No. E-91085; Comments of Alascom, Inc. in the instant proceeding, p. 4.

scheme mandated by Congress should not represent an opportunity for carriers such as GCI to escape from other legal obligations for which they have been responsible at all times.

Respectfully submitted,

ALASCOM, INC

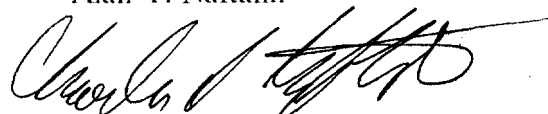
Handwritten signature of Alan Y. Naftalin in cursive, with the initials "CRN" in parentheses at the end.

By /s/ Alan Y. Naftalin
Alan Y. Naftalin

Of Counsel:

Francis L. Young

Young & Jatlow
2300 N Street, N.W.
Suite 600
Washington, D.C. 20037
(202) 663-9080

Handwritten signature of Charles R. Naftalin in cursive.

By /s/ Charles R. Naftalin
Charles R. Naftalin

Koteen & Naftalin
1150 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 467-5700

Its Attorneys

April 29, 1992

CERTIFICATE OF SERVICE

I, Barbara Frank, a secretary in the law firm of Koteen & Naftalin, do hereby certify that copies of the foregoing "REPLY COMMENTS OF ALASCOM, INC." were mailed first-class U.S. Mail, postage prepaid, this 29th day of April 1992 to the following:

Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554
(two copies)

The Downtown Copy Center
1114 21st Street, N.W.
Washington, D.C. 20036

Joe D. Edge, Esq.
Hopkins & Sutter
888 16th Street, N.W.
Washington, D.C. 20006

Frank W. Krogh, Esq.
Donald J. Elardo, Esq.
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Joan M. Griffin, Esq.
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

David L. Nace, Esq.
Marci E. Greenstein, Esq.
Luka, McGowan, Nace & Gutierrez
1819 H Street, N.W.
Seventh Floor
Washington, D.C. 20006

Robert W. Healy, Esq.
Smithwich & Belendiuk, P.C.
2033 M Street, N.W.
Suite 207
Washington, D.C. 20036

Brian R. Moir, Esq.
Glenn S. Richards, Esq.
Fisher, Wayland, Cooper and Leader
1255 23rd Street, N.W.,
Suite 800
Washington, D.C. 20037-1170

Randolph J. May, Esq.
David A. Gross, Esq.
Elizabeth C. Buckingham, Esq.
Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2403

Stuart G. Meister, Esq.
Fairchild Communications Services
Company
300 West Service Road
Chantilly, VA 22021-0804

James S. Blaszak, Esq.
Partrick J. Whittle, Esq.
Gardner, Carton & Douglas
1301 K Street, N.W.
Suite 900 East
Washington, D.C. 20005

R. Michael Senkowski, Esq.
Jeffrey S. Linder, Esq.
Todd M. Stansbury, Esq.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Andrew D. Lipman, Esq.
Helen E. Disenhaus, Esq.
Swidler & Berlin, Chartered
3000 K Street, N.W.
Washington, D.C. 20007

Thomas J. Casey, Esq.
 Jay L. Birnbaum, Esq.
 Simone Wu, Esq.
 Timothy R. Robinson, Esq.
 Skadden, Arps, Slate, Meagher & Flom
 1440 New York Avenue, N.W.
 Washington, D.C. 20005

Lawrence E. Sarjeant, Esq.
 James T. Hannon, Esq.
 1020 19th Street, N.W.
 Suite 700
 Washington, D.C. 20036

James D. Ellis, Esq.
 William J. Free, Esq.
 Paul G. Lane, Esq.
 Mark P. Royer, Esq.
 One Bell Center, Room 3512
 St. Louis, MO 63101-3099

Philip L. Verveer, Esq.
 Sue D. Blumenfeld, Esq.
 Michele R. Pistone, Esq.
 Willkie Farr & Gallagher
 1155 21st Street, N.W.
 Suite 600
 Washington, D.C. 20036

James P. Tuthill, Esq.
 Margaret deB. Brown, Esq.
 Pacific Telesis Group
 140 Montgomery Street
 Room 1529
 San Francisco, CA 94105

Josephine S. Trubek, Esq.
 Rochester Tel Center
 180 South Clinton Avenue
 Rochester, NY 14646-0700

James D. Heflinger, Esq.
 LiTel Telecommunications Corporation
 dba: LCI International
 4650 Lakehurst Court
 Dublin, OH 43017

L. Marie Guillory, Esq.
 National Telephone Cooperative
 Association
 2626 Pennsylvania Avenue, N.W.
 Washington, D.C. 20037

Andrew O. Isar
 Telecommunications Marketing Association
 14405 SE 36th Street, Suite 300
 Bellevue, WA 98006

Leon M. Kestenbaum, Esq.
 Phyllis A. Whitten, Esq.
 Sprint Communications Company L.P.
 1850 M Street, N.W.
 Suite 1110
 Washington, D.C. 20036


Spencer L. Perry, Jr.
 Interexchange Resellers Association
 P.O. Box 5090
 Hoboken, NJ 07030

Martin W. Bercovici, Esq.
 Carol Moors Toth, Esq.
 Keller and Heckman
 1001 G Street, N.W.
 Washington, D.C. 20001

Patrick A. Lee, Esq.
 Edward E. Niehoff, Esq.
 New York Telephone Company
 New England Telephone and
 Telegraph Company
 120 Bloomingdale Road
 White Plains, NY 10605

J. Roger Wollenberg, Esq.
 William T. Lake, Esq.
 Jonathan Jacob Nadler, Esq.
 Wilmer, Cutler & Pickering
 2445 M Street, N.W.
 Washington, D.C. 20037

Francine J. Berry, Esq.
Mark C. Rosenblum, Esq.
Roy E. Hoffinger, Esq.
American Telephone and Telegraph
Company
Room 3244J1
295 North Maple Avenue
Basking Ridge, NJ 07920


/s/ Barbara Frank
Barbara Frank